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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,007	08/14/2001	James William Otter	60246-141/9700	9100
26096	7590	03/03/2004	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			PIAZZA CORCORAN, GLADYS JOSEFINA	
			ART UNIT	PAPER NUMBER
			1733	

DATE MAILED: 03/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/930,007

Applicant(s)

OTTER, JAMES WILLIAM

Examiner

Gladys J Piazza Corcoran

Art Unit

1733

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on February 9, 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.


The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-6, 10, 11 and 21-27.Claim(s) withdrawn from consideration: 7-9 and 12-20.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

  
Gladys J. Piazza Corcoran  
Examiner  
Art Unit: 1733

Continuation of 5. does NOT place the application in condition for allowance because:

Applicant argues that there is no suggestion in Ripka to make tubes 201 of any other material other than metal and no suggestion to form of norbornene. As stated previously, Fletcher discloses the motivation of forming heat exchanger pipes from polymer materials as opposed to metals in order to reduce the weight of the exchanger. Fletcher discloses that a variety of polymer materials may be used. Winter further discloses a polymer material for forming tubes and heat exchangers including norbornene. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to form the exchanger in Ripka out of polymer materials as shown by Fletcher in order to reduce the weight of the exchanger and to use norbornene as a component in the polymer as shown by Winter, only the expected results would be attained.

Applicant further argues that Fletcher teaches against extrusion molding the tubes by teaching that the article is manufactured as an integral unit by injection molding. As previously stated, the references Ninomiya and Taga both disclose the advantages of extrusion molding tubes over injection molding as reducing the number of manufacturing steps and reducing the expense of manufacturing. Therefore, it would have been obvious to extrusion mold the tubes in Ripka out of polymer as shown in Ninomiya and Taga in particular for forming curved tubing in order to reduce steps and costs of injection molding the tubes, only the expected results would be attained.

Applicant finally argues that it is not possible to position a straight pipe between the u-shaped pipe of Ripka. The claims do NOT require a straight pipe between a u-shaped pipe. The references fully meet the current limitations of the claims as currently written and as discussed previously.